THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P. No. 23424, 23673 and 23674 of 1995

Dated: 17.11.2006

Between:

P. Satyanarayana Chowdary

… Petitioner in
W.P.No.23424/95

K. Uma Maheswara Rao

… Petitioner in
W.P.No.23623/95

M. Sinivasa Rao

… Petitioner in
W.P.No.23674/95

AND

A.P. Beverages Corporation Limited,
11-5-423/1/A, Lakdi-ka-pool, Hyderabad.

… Respondent
in all writ petitions

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P. Nos. 23424, 23673 and 23674 of 1995

COMMON ORDER:-

The petitioners applied to the respondent Corporation for the posts of Assistant Manager (Operations) in the pay scale of Rs.900-1500/- and they were called for written test and interview held between 29th - 31st August, 1986. The petitioners were selected and appointed as Assistant Managers by the respondent Corporation through proceedings No.ABC/PER/A-O/AM(O)/8/86, dated 11.09.1986 on a consolidated pay of Rs.2,000/- per month.

The petitioners' case is that 22 persons were selected and appointed as Assistant Managers (Operations), of which six persons including the petitioners were given a pay of Rs.2,000/- and other persons were given consolidated salary of Rs.1,800/- per month. The petitioners' probation was declared through proceedings dated 20.04.1988 and their pay was subsequently fixed on 05.04.1989 at Rs.1,760/- in the pay scale of Rs.1550-3000 with effect from the date of regularization of their services. The petitioners' annual increments that fell due on 13.10.1988 were also sanctioned raising their pay scale from Rs.1760-1830. The petitioners contend that the fixation of pay vide proceedings dated 15.03.1990 in the revised scale of pay of Rs.1810-3230 is illegal, that having regard to the petitioners'

experience and qualifications apart from their performance at the written test and oral interview, the respondent agreed to pay higher pay scale to them and that was given effect to while declaring their probation by giving them pay of Rs.1760/-. The petitioners further contend that the pay scale of Rs.1810-3230 was not a revised pay scale, but a new scale in the place of another scale and the respondent has no jurisdiction to take away the benefit of earlier increments, which were given to them. The petitioners further contend that the new scale has caused monetary loss to them since their pay was fixed at Rs.1970/- together with five additional increments as on 13.10.1988, but while fixing the pay in a new scale of Rs.1810-3230, their pay was fixed at Rs.1810/-. In short, their plea in this regard is that their pay protection was not made. The petitioners therefore sought for the relief of appropriate writ to declare the action of the respondent Corporation in fixing their pay through proceedings dated 15.03.1990 without reference to the advance increments and higher start granted to them in proceedings dated 05.04.1989 as illegal and arbitrary and consequently to direct the respondent to revise their pay scale with all consequential benefits.

The General Manager (Operations) of the respondent Corporation filed a counter-affidavit. It is admitted in the counter-affidavit that taking into consideration the qualifications etc., the pay of the petitioners was fixed at Rs.2000/- while for some others it was fixed at Rs.1800/- per month. While admitting that higher pay scale with three increments was fixed to the petitioners, it was contended that the new pay scale of Rs.1810-3230 has not resulted in any pecuniary loss or reduction in their pay scale. The contention of the respondent is that with the introduction of new scale, all the Assistant Mangers were

treated equally and this does not suffer from any arbitrariness or discrimination. The respondent also raised the plea that the writ petitions suffer from laches.

Heard Sri B.Adinarayana Rao, learned counsel for the petitioners and Sri G.Manohar, learned Standing Counsel for the respondent Corporation.

At the outset, Sri Adinarayana Rao initially raised the plea that the new pay scale failed to protect the pre-existing pay of the petitioners and therefore the fixation of new pay scale is liable to be declared as illegal.

Sri G.Manohar, after taking an adjournment, had filed a statement and sought to justify the denial of two increments on the ground that the said two increments were paid to the petitioners without previous sanction of the Board and therefore those increments were taken away from their pay scale.

Sri Adinarayana Rao fairly conceded that in view of the explanation given by the respondent corporation, he does not press this contention.

As regards the main contention of Sri Adinarayana Rao, it is necessary to extract the contents of the Employment Notification, to the extent it is relevant, which read as under:

> "**Pay & Allowances:-** 900-40-1300-50-1500 Besides basic pay all other allowances such as D.A./H.R.A./C.C.A./T.A. etc., as are applicable to all other public sector undertakings of Andhra Pradesh are payable. Gross salary at the minimum of the basic will be around Rs.2000/- per month. Deserving candidates will be considered for higher start."

From the aforementioned notification, it is no doubt clear that the respondent has assured that deserving candidates will be considered for higher start. Undoubtedly, as assured in the employment notification, the petitioners along with some others were given higher consolidated pay of Rs.2000/- per month when compared to Rs.1800/-, which was paid to others. Sri Adinarayana Rao contends that the difference in pay scale, which was started initially and continued later with the fixation of the regular pay scale ought to be maintained even in the scales which are impugned in the present writ petition.

On the other hand, Sri Manohar contends that once the new pay scale is brought into force, the respondent has obliterated the disparity between the two categories and since there is no monetary loss to the petitioners on account of the new pay scale, the same cannot be said to be illegal or arbitrary.

Having given my anxious consideration to the rival pleas, I am of the view that the petitioners do not have any legally enforceable right to claim that the higher pay, which was given to them at the beginning, shall be continued forever. A careful reading of the expression mentioned in the employment notification suggests that deserving candidates are provided with higher start. Accordingly, the higher start was given to the petitioners. I am unable to construe the notification as having the effect of assuring the petitioners that the higher start given therein continues through out their career. It is not in dispute that the new scales protect the pre-existing scale of the petitioners and they do not cause any monetary loss to the petitioners except that the parity is restored between the petitioners and all other Assistant Managers. Therefore, I do not see any illegality in the new pay scales.

Apart from the merits of the cases, I also notice that the writ petitions were filed almost five years after coming into force of the new pay scales. The petitioners mentioned in the affidavits that they made repeated representations starting from 22.03.1990 with their last representation having been made on 14.07.1995, which did not wake up the respondent. In my considered opinion, repeated representations cannot be a ground to justify the long delay in approaching this Court. The writ petition thus suffers from uncondonable laches as well.

For the aforementioned reasons, the writ petitions fail and accordingly the same are dismissed. No costs.

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C.V. NAGARJUNA REDDY, J

Date: 17.11.2006
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